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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**[Docket No. FAR 2015-0051, Sequence No. 5]**

**Federal Acquisition Regulation; Federal Acquisition Circular  
2005-85; Introduction**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of interim and final rules.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-85. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

**DATES:** For effective dates see the separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-85 and the specific FAR case number. For information pertaining to status or publication

schedules, contact the Regulatory Secretariat at 202-501-4755.

**Rules Listed in FAC 2005-85**

| <u>Item</u> | <u>Subject</u>  | <u>FAR Case</u> | <u>Analyst</u> |
|-------------|---|-----------------|----------------|
| I           | Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction (Interim) | 2015-011        | Davis          |
| II          | Further Amendments to Equal Employment Opportunity  | 2015-013        | Loeb           |
| III         | Updating Federal Contractor Reporting of Veterans' Employment (Interim)                             | 2015-036        | Loeb           |
| IV          | Pilot Program for Enhancement of Contractor Employee Whistleblower Protections                      | 2013-015        | Davis          |
| V           | Retention Periods   | 2015-009        | Glover         |
| VI          | Establishing a Minimum Wage for Contractors   | 2015-003        | Loeb           |
| VII         | Technical Amendment   |                 |                |

**SUPPLEMENTARY INFORMATION:** Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries.

FAC 2005-85 amends the FAR as follows:

**Item I—Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction (FAR Case 2015-011) (Interim)**

This interim rule amends the FAR to implement sections of the Consolidated and Further Continuing Appropriations Act, 2015, to prohibit the Federal Government from entering into a contract with any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless an agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

This interim rule has no significant impact on the Government and contractors, including small business entities.

**Item II—Further Amendments to Equal Employment Opportunity  
(FAR Case 2015-013)**

DoD, GSA, and NASA are issuing a final rule adopting an interim rule published April 10, 2015, without change. The interim rule amended the FAR to implement Executive Order (E.O.) 13672, entitled "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity". E.O. 13672 was signed July 21, 2014.

E.O. 11246, dated September 24, 1965, established requirements for non-discriminatory practices in hiring and employment for Federal contractors and subcontractors. The bases of discrimination prohibited by E.O. 11246 are race,

color, religion, sex, and national origin. E.O. 13672 adds sexual orientation and gender identity to the prohibited bases of discrimination established by E.O. 11246. There is no significant impact on small entities.

**Item III—Updating Federal Contractor Reporting of Veterans' Employment (FAR Case 2015-036) (Interim)**

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement a final rule issued by the Department of Labor's Veterans' Employment and Training Service (VETS) that revised the regulations at 41 CFR part 61 implementing the reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) and the Jobs for Veterans Act (JVA) (Pub. L. 107-288). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under VEVRAA, as amended by the JVA, and the total number of those protected veterans who were hired during the period covered by the report. The VETS rule requires contractors and subcontractors to comply with its revised reporting requirements using the new Form VETS-4212, in lieu of the VETS-100 and VETS-100A, beginning with the annual report filed in 2015.

There is no significant impact on small entities imposed by the FAR rule.

**Item IV—Pilot Program for Enhancement of Contractor Employee Whistleblower Protections (FAR Case 2013-015)**

This final rule amends the FAR to implement a statutory pilot program enhancing whistleblower protections for contractor employees at FAR subpart 3.9. An interim rule was published September 30, 2013. The interim rule created a new FAR section 3.908 to be used by title 41 agencies through January 1, 2017.

The four-year pilot program is mandated by section 828, entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013).

This rule has no significant impact on small business concerns.

**Item V—Retention Periods (FAR Case 2015-009)**

This final rule amends the FAR by updating the Government file retention periods to conform with the retention periods in the National Archives and Records Administration (NARA) General Records Schedule (GRS). Language is also added to instruct agencies that require a shorter retention period for certain records to request approval from NARA through the agency's record officer. This rule change does not place any new requirements on

small entities; the only change is the timeframe for retention by the Government of Government records.

**Item VI—Establishing a Minimum Wage for Contractors (FAR Case 2015-003)**

DoD, GSA, and NASA are issuing a final rule adopting the interim rule published December 15, 2014, with change. The interim rule amended the FAR to implement Executive Order 13658 and a Department of Labor final rule issued on October 7, 2014, both entitled “Establishing a Minimum Wage for Contractors,” which established a new minimum wage for covered service and construction contracts of \$10.10 per hour, as of January 1, 2015. The Executive Order minimum wage will be adjusted annually, by the Department of Labor. Contracting officers will include a clause in covered contracts and will adjust contract prices for the annual adjustments in the Executive Order minimum wage. Contractors shall consider any subcontractor request, including requests by small businesses subcontractors, for a subcontract price adjustment due to the annual adjustment in the Executive Order minimum wage.

There is no significant impact on small entities imposed by the FAR rule.

**Item VII—Technical Amendment**

Editorial change is made at FAR 1.106.

**Dated:** November 20, 2015.

William Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

**[BILLING CODE 6820-EP]**

Federal Acquisition Circular (FAC) 2005-85 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-85 is effective **[insert date of publication in the Federal Register]** except for item I and III which are effective February 26, 2016, and item V which is effective **[insert date 30 days after publication in the Federal Register]**.

**Dated: November 23, 2015.**

**Claire M. Grady,**  
Director, Defense Procurement  
and Acquisition Policy

**Dated: November 24, 2015.**

**Jeffrey A. Koses,**  
Senior Procurement Executive/Deputy CAO,  
Office of Acquisition Policy,  
U.S. General Services Administration.

**Dated: November 20, 2015.**

**William P. McNally,**  
Assistant Administrator, Office of Procurement  
National Aeronautics and Space Administration.

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